

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**January 7, 2003**

DIVISION ONE

B154491      Harold H. Archuleta                      (Not for Publication)  
                 v.  
                 American Airlines, Inc., et. al.

Given that determination of defendants' motion to disqualify, plaintiff's counsel requires the resolution of factual disputes, it would be inappropriate for us to make a determination. We therefore remand the matter to the trial court. We note that the court is not limited in deciding the motion to Judge Flier's earlier rulings. All factual matters bearing on the conduct of plaintiff's counsel, from that prompting Judge Flier's denial of the motion to disqualify Judge Altman through that prompting Judge Altman's request to Judge Flier for assistance, as well as plaintiff's counsel's response to Judge Altman's complaints, have a bearing on the outcome of defendant's motion to disqualify plaintiff's counsel. We further note, however, that the time to challenge Judge Flier's conclusions has passed. Plaintiff's counsel may not argue anew the evidence upon which she found their motion to disqualify Judge Altman to be meritless.

The order is reversed with directions. Defendants are to recover costs on appeal.

Spencer, P.J.

We concur:    Vogel (Miriam A.), J.  
                 Mallano, J.

B158466      In re Mark E.                      (Not for Publication)  
B159749      v.  
                 Department of Children and Family Services, Los Angeles County  
                 Jonita W.

The orders are affirmed.

Spencer, P.J.

We concur:    Ortega, J.  
                 Vogel (Miriam A.), J.

## January 7, 2003 (Continued)

## DIVISION ONE (Continued)

B160202 People (Not for Publication)

V.

Jose L. Casillas

The judgment is affirmed.

Spencer, P.J.

We concur: Ortega, J.

Vogel (Miriam A.), J.

B150182 People (Not for Publication)

V.

Carlos Antonio Borja

The judgment is reversed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.

Mallano, J.

B157800 Gary Hollingsworth (Not for Publication)

V.

Ruben Ferziger

We affirm the judgment. Ferziger is entitled to his costs on appeal.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.

Mallano, J.

B154626      Isaac J. Martin, Jr., et. al.      (Not for Publication)

V.

Track Mortgage Group, Inc., et. al.

The judgment is reversed. The Martins are entitled to their costs on appeal.

Ortega, J.

We concur: Spencer, P.J.

Mallano, J.

DIVISION ONE (Continued)

B156476      Cabot, Cabot & Forbes                      (Not for Publication)  
Development Co., Inc., et. al.  
v.  
D. W. Burhoe Construction, Inc.

We affirm the trial court's findings that Burhoe was the prevailing party, was entitled to contractual attorney fees, and reducing Burhoe's fees by \$48,085.50 for fees incurred before CCF filed it's cross-complaint. We reverse that portion of the court's order reducing Burhoe's fees and costs by two-thirds. We vacate the amount of attorney fees and costs awarded to Burhoe. We remand for the court to determine the precise amount of attorney fees and costs to which Burhoe is entitled. Burhoe is entitled to its costs on appeal.

Ortega, J.

We concur:    Spencer, P.J.  
                     Vogel (Miriam A.), J.

B152466      Mortgage Associates, Inc.  
v.  
Fidelity and Deposit Company of Maryland, et al.

Filed order certifying opinion for publication.

DIVISION TWO

B158142      Los Angeles County, D.C.S. (Not for Publication)  
v.  
Steve M., et al.

The orders of the juvenile court are affirmed.

Nott, J.

We concur:    Boren, P.J.  
                     Nott, J.

DIVISION TWO (Continued)

B154191      Cruze      (Certified for Publication)

v.  
National Psychiatric Services, Inc.

The judgment is affirmed.

Boren, P.J.

We concur:    Nott, J.  
Doi Todd, J.

B152972      Doshi, et al.      (Not for Publication)

v.  
Hollingshead, et al.

The judgment is affirmed.

Boren, P.J.

We concur:    Nott, J.  
Ashmann-Gerst, J.

B156580      Gill-Brown      (Not for Publication)

v.  
Khetan, et al.  
Fessler, et al.

The judgment is affirmed. Respondent is entitled to costs from appellants, who are jointly and severally responsible for such payment.

Boren, P.J.

We concur:    Nott, J.  
Ashmann-Gerst, J.

January 7, 2003 (Continued)

DIVISION TWO (Continued)

B152602      Wiz Technology, Inc.      (Not for Publication)  
                 v.  
                 Coopers & Lybrand LLP

The judgment is affirmed.

Boren, P.J.

We concur:    Nott, J.  
                 Doi Todd, J.

B138910      Aviation Leasing Group      (Not for Publication)  
                 v.  
                 Hyatt Corporation, et al.

The judgments and orders appealed from are affirmed.

Boren, P.J.

We concur:    Doi Todd, J.  
                 Ashmann-Gerst, J.

B152163      People      (Not for Publication)  
                 v.  
                 Mares

The judgment is modified to strike imposition of the \$10,000 parole revocation fine. The trial court is directed to correct the abstract of judgment to reflect a term of life with the possibility of parole as to count 8. In all other respects, the judgment is affirmed.

Boren, P.J.

We concur:    Nott, J.  
                 Ashmann-Gerst, J.

January 7, 2003 (Continued)

## DIVISION TWO (Continued)

B158263 People (Not for Publication)  
v.  
Hernandez

The judgment is affirmed.

Boren, P.J.

We concur:   Nott, J.  
                      Doi Todd, J.

B158055      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Sharon B.

The appeal is ordered dismissed.

Boren, P.J.

We concur: Nott, J.  
Doi Todd, J.

## DIVISION THREE

B148400      Emily Greines                      (Not for Publication)  
v.  
Ford Motor Company, Inc. et al.

The judgment is reversed, and the orders sustaining the demurrer without leave to amend and granting summary judgment are vacated. Greines is entitled to recover her costs on appeal.

Kitching, J.

We concur: Klein, P.J.  
Croskey, J.

January 7, 2003 (Continued)

DIVISION FIVE

Court convened at 9:05 a.m.

Present: Turner, P.J., Grignon, J., Armstrong, J. and J. Belcher, Deputy Clerk.

Each of the following:

B158659 DCFS v. Jeanette L.

B156756 People v. Huffman

Argument waived, cause submitted.

B156585 National Council Against Health Fraud

v.

King Bio Pharmaceuticals, Inc.

Merits:

Argued by Morse Mehrban for appellant and by Carlos F. Negrete for respondent. Cause submitted.

B158439 People

v.

David Robins

Merits:

Argued by Vanessa Place for appellant and by Paul M. Roadarmel, Jr., deputy attorney general, for respondent. Cause submitted.

B152515 Sonia Cabrera

v.

City of Los Angeles

Merits:

Argued by Blithe Ann Bock, deputy city attorney, for appellant and by Larry J. Roberts for respondent. Cause submitted.

Court recessed at 9:45 a.m.

Court reconvened at 11:00 a.m.

January 7, 2003 (Continued)

DIVISION FIVE (Continued)

Present: Turner, P.J., Armstrong, J., Mosk, J., and J. Belcher, Deputy Clerk.

Each of the following:

B157006 People v. Perez  
B156125 People v. Palmateer  
B155260 People v. Sidebottom

Argument waived, cause submitted.

B162707     Pfeiffer Venice Properties, LLC.  
                  v.  
                  Superior Court, Los Angeles County  
                  (Sheila Bernard et al., r.p.i.)

Merits:

Argued by Gregory Smith for petitioner and by Daniel Tokaji for real parties in interest. Cause submitted.

B158494     Los Angeles County, D.C.F.S.  
                  v.  
                  Martin E.  
                  In re Andrew E.

Merits:

Argued by Tyna Thall Orren for appellant and by Thomas P. Fagan, deputy county counsel, for respondent. Cause submitted.

B157502     People  
                  v.  
                  Richard Mayer

Merits:

Argued by Glen T. Jonas for appellant and by Scott A. Taryle, deputy attorney general, for respondent. Cause submitted.

Court recessed at 12:15.m.

Court reconvened at 1:00 pm.



January 7, 2003 (Continued)

## DIVISION FIVE (Continued)

Present: Turner, P.J., Armstrong, J., Mosk, J., and J. Belcher, Deputy Clerk.

B155371      Ann Li Yia Huang, et al.  
v.  
5 Star Plastics, Inc., et al.

Merits:

Argued by Bruce W. Wagner for appellants and by Michael L. Kadish for respondents. Cause submitted.

B157323 Continental Insurance Company  
v.  
Columbus Lines, Inc.

Merits:

Argued by Joseph N. Mirkovich for appellant and by Joshua Kirsch for respondent. Cause submitted.

B148156      Union Federal Bank, et al.  
v.  
Landmark Insurance Co.

Merits:

Argued by Roy Jeys for appellants and by Randall Gery Block for respondent. Cause submitted.

Court recessed at 2:25 p.m.

## DIVISION SEVEN

B155888      Dean                                  (Not for Publication)  
v.  
Fleet Financial Group

The judgment is affirmed. Respondent(s) to recover costs.

Johnson, Acting P.J.

We concur: Woods, J.  
Perluss, J.

January 7, 2003 (Continued)

DIVISION SEVEN (Continued)

B154314      J.S.J.F. Corporation                      (Not for Publication)  
                 v.  
                 Sizzler International, Inc.

The orders are affirmed. Sizzler to recover its costs of appeal.

Johnson, Acting P.J.

We concur:    Woods, J.  
                 Perluss, J.

B152597      People    (Not for Publication)  
                 v.  
                 Alonso

The judgment is affirmed.

Johnson, Acting P.J.

I concur:        Perluss, J.

B153421      LMB Lend Lease, Inc.                      (Not for Publication)  
                 v.  
                 National Union Fire Insurance Company

The judgment is reversed and the cause remanded to the trial court with directions to dismiss this action without prejudice. Each party is to bear its own costs on appeal.

Johnson, Acting P.J.

We concur:    Woods, J.  
                 Perluss, J.

DIVISION SEVEN (Continued)

B143848      Crouch      (Not for Publication)

v.

Shields for Families Project, Inc.

The order granting a new trial is affirmed. The appeal from the judgment is dismissed. Respondent is to recover his costs on appeal.

Johnson, Acting P.J.

We concur:    Woods, J.

Perluss, J.

B151365      Gilbert and Master Washer & Stamping Co. (Not for Publication)

v.

Master Washing & Stamping Co. and Gernsbacher

The order denying Gilbert's motion for attorney fees is affirmed. The order granting Gernsbacher's motion for attorney fees is reversed. Master Washer is awarded its costs on appeal.

Johnson, Acting P.J.

We concur:    Woods, J.

Perluss, J.

B157099      People      (Not for Publication)

v.

Valenzuela

The judgment is reversed, and the cause is remanded to the trial court for further proceedings not inconsistent with this opinion.

Perluss, J.

We concur:    Johnson, Acting P.J.

Woods, J.

## DIVISION SEVEN (Continued)

B155201      People                          (Not for Publication)  
v.  
Arnold

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The Superior Court shall cause its clerk to prepare an amended abstract of judgment crediting appellant for 1,013 days of presentence credit, consisting of 881 days of actual custody and 132 days of goodtime/work time credits, and to forward it to the Department of Corrections. As amended, the judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.  
Perluss, J.

B155950 People (Not for Publication)  
v.  
Cole

We remand the cause to the superior court for its clerk to prepare an amended abstract of judgment, which deletes the Health and Safety Code section 11370.2, subdivision (a) enhancement and otherwise accurately reflects the sentence pronounced by the court, and send it to the California Department of Corrections. The judgment, as modified, is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.  
Perluss, J.

B152420      People  
v.  
McGee

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION EIGHT

B156629      Pamela Szper                      (Not for Publication)  
                 v.  
                 Ivar Szper

The trial court's order denying termination of spousal support is affirmed.  
Costs on appeal to respondent, Pamela Szper.

Cooper, P.J.

We concur:    Rubin, J.  
                     Boland, J.

B156058      People                                      (Not for Publication)  
                 v.  
                 Waggoner

The judgment is affirmed.

Cooper, P.J.

We concur:    Rubin, J.  
                     Boland, J.

B152748      Future-Link, Inc.                      (Not for Publication)  
                 v.  
                 WebTV Networks, Inc., et al.

The judgment is affirmed with respect to Philips, and reversed with respect  
to WebTV. Philips shall recover its costs on appeal from Future-Link;  
Future-Lind shall recover its own costs on appeal from WebTv.

Cooper, P.J.

We concur:    Rubin, J.  
                     Boland, J.

## January 7, 2003 (Continued)

## DIVISION EIGHT (Continued)

B152293 People (Not for Publication)  
v.  
Macias

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B148074      Mansergh      (Not for Publication)  
v.  
Daigneault

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

B145833 James Banks, a Minor, etc. (Not for Publication)  
v.  
Friendly Hills Medical Center

The appellant is entitled to a new trial upon the sole issue of the amount of damages unless within thirty days from the filing of the remittitur in the court below, the respondent shall agree to a judgment of \$1,290,334.50. It is ordered that if such remission be so made then the judgment shall stand affirmed; otherwise it shall stand reversed and the cause be remanded for trial upon the issue of the amount of damages. In either event, the parties are to bear their own costs on appeal.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.

January 7, 2003 (Continued)

DIVISION EIGHT (Continued)

1-7-03

118226-03

THE **HONORABLE J. GARY HASTINGS**, Associate Justice of the Court of Appeal, Second Appellate District, Division Four, is hereby assigned to assist the Court of Appeal, Second Appellate District, **Division EIGHT**, as a justice thereof, on the following date(s):

**January 30, 2003 To January 31, 2003**

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, in necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

January 2, 2003

Ronald M George  
Chief Justice of California and  
Chairperson of the Judicial Council